2012 FEB -6 PM 4: 28 LAW OFFICE OF GREGORY T. PARZYCH 1 Gregory T. Parzych, Bar ID, 014588 ا ایا د. دو مسطوعه افغاد دو در در باید بای در بالبای پایان در 2340 West Ray Road, Suite 1 BY: V REISINGER Chandler, Arizona 85224 Telephone (480) 831-0200 Attorney for the Defendant gparzlaw@aol com 5 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA 6 INA AND FOR THE COUNTY OF YAVAPAI 7 STATE OF ARIZONA No. P1300CR201001325 8 Plaintiff. RESPONSE TO STATE'S MOTION FOR 9 RECONSIDERATION VS. 10 STEVEN CARROLL DEMOCKER (Oral Argument Requested) 11 Defendant. 12 13 COMES NOW THE DEFENDANT, by and through his attorney 14 undersigned, and Responds to the State's Motion For Reconsideration. 15 16 **MEMORANDUM** 17 The State's Motion For Reconsideration is similar to the State's Motion For 18 Admissible Evidence filed on July 29, 2011. Most, if not all, of the State's 19 arguments have been addressed, argued, re-argued and denied. As Defendant 20 argued in his Response filed on August 15, 2011, Rule 16.1(d) and Rule 35.1, 21 Arizona Rules of Criminal Procedure provide that the State's Motion For 22 23 Reconsideration should be once again denied. "Except for good cause, or as otherwise provided by these rules, an issue previously determined by the court shall 24 25 not be reconsidered." Rule 16.1(d), Arizona Rules of Criminal Procedure (emphasis added.) 26

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| | IIRS Emails and Defendant's call phone records |
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| 1 | UBS Emails and Defendant's cell phone records |
| 2 | After hearing oral argument on March 30, 2010, April 8, 2010 and April 13, |
| 3 | 2010, the Trial Court previously held that this information was not particularly |
| 4 | relevant. The State is re-asserting the same arguments made on those dates and has |
| 5 | shown no good cause as to why this ruling should change. (State exhibit 1.) |
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| 7 | Defendant's statements |
| 8 | On March 30, 2010, the court held an evidentiary hearing where Ms. O'Non |
| 9 | testified. The Trial Court made specific findings as to each statement and ruled that |
| 10 | the statements the state sought to introduce lacked foundation and/or were unduly |
| 11 | prejudicial. Once again, no good cause has been shown as to why this ruling should |
| 12 | be changed. (State exhibit 2.) |
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| 14 | UBS computer time log |
| 15 | On April 28, 2010 upon questioning by the Trial Court, the State indicated |
| 16 | that this information was not critical to its case. The Trial Court precluded it. |
| 17 | Nothing has changed and it should remain precluded. (State exhibit 3.) |
| 18 | Trouming has changed and it should remain preciated. (State Chinese 3.) |
| 19 | American Express and Bank of America records |
| 20 | On April 28, 2010, the Trial Court precluded these records as the State's |
| 21 | expert did not rely on these records in providing his opinion. Again, state has |
| 22 | |
| 23 | offered nothing new and the ruling should not change. (State exhibit 4.) |
| 24 | Recorded jail calls |
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On April 13, 2010, the Trial Court precluded calls not only based upon late

| 1 | disclosure but also because, as the court stated, "I still see some other issues with |
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| 2 | regard to relevance, cumulative, and those sorts of things." (State Exhibit 6, April |
| 3 | 13, 2010, transcript p. 46, l. 21-22.) No good cause has been shown as to why this |
| 4 | ruling should be changed. |
| 5 | Search for carbon monoxide |
| 6 | |
| 7 | On January 15, 2010, the Trial Court made specific findings after conducting |
| 8 | a Rule 403, Arizona Rules of Evidence, balancing of probative value vs. prejudicial |
| 9 | effect. Once again, the State offers nothing more than an unsolicited re-argument. |
| 10 | The ruling should not change. (State exhibit 7.) |
| 11 | Again, the State is seeking to re-argue motions it has previously lost without |
| 12 | provided any good cause as to why those ruling should change. As such, this Court |
| 13 | |
| 14 | should deny the State's motion in its entirety. |
| 15 | Respectfully submitted this 6 day of February, 2012. |
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| 17 | By (M) FOR |
| 18 | Gregory T. Parzych |
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| 1 | Original of the foregoing pleading filed this 6 day of February, 2012, to: |
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| 2 | Clerk of Court |
| 3 | Yavapai County Superior Court 120 South Cortez St. Prescott, Arizona 86303 |
| 4 | |
| 5 | Copy of the foregoing pleading e-mailed this 6th day of February, 2012, to: |
| 6 | The Honorable Gary E. Donahoe |
| 7 | The Honorable David L. Mackey 120 S. Cortez Prescott, AZ 86303 |
| 8 | |
| 9 | Jeffrey Paupore, Steve Young, Office of the Yavapai County Attorney 255 E. Gurley Street, Suite 300 |
| 10 | Prescott, AZ 86301 |
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| 12 | By (d) |
| 13 | Gregory T. Parzych |
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